

Assembly Bill No. 124

CHAPTER 12

An act to amend Section 114145 of the Health and Safety Code, relating to environmental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 24, 2001. Filed with
Secretary of State May 25, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 124, Cedillo. Food establishments: public markets.

Existing law, the California Uniform Retail Food Facilities Law, provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services.

Existing law requires each food establishment, except produce stands and swap meet prepackaged food stands, to be fully enclosed, in a building meeting specified criteria. Existing law excludes specified facilities from this requirement.

This bill would additionally exclude the Mercado La Paloma public market in Los Angeles, as described in the bill, from the above enclosure requirements. This bill would declare that due to the unique circumstances relating to the structure and operation of the Mercado La Paloma, a general statute cannot be made applicable.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 114145 of the Health and Safety Code is amended to read:

114145. (a) Each food establishment, except produce stands and swap meet prepackaged food stands, shall be fully enclosed in a building consisting of floors, walls, and an overhead structure that meet the minimum standards prescribed by this chapter. Food establishments that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirement for a fully enclosed structure pursuant to this section.

(b) This section shall not be construed to require the enclosure of any of the following:

- (1) Dining areas.
- (2) Open-air barbecue facilities.



(3) Outdoor wood-burning ovens that meet all of the food preparation and safety requirements applicable to open-air barbecue facilities.

(4) Outdoor beverage bars contiguous with a fully enclosed food establishment under the constant and complete control of the operator of the food establishment, provided that the following requirements are met:

(A) The food establishment is a bona fide public eating place, as defined by Sections 23038, 23038.1, and 23038.2 of the Business and Professions Code.

(B) The operator of the food establishment is a licensee, as defined by Section 23009 of the Business and Professions Code, performing under authority of a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000), Business and Professions Code) for the outdoor beverage bar.

(C) The outdoor beverage bar is, at all times, operated pursuant to the requirements of this chapter, including, without limitation, Sections 114010 and 114080, and any conditions imposed by the local health agency to ensure compliance with the requirements of this chapter.

(5) Outdoor displays that meet all of the following requirements:

(A) Only prepackaged nonpotentially hazardous food, uncut produce, or both is displayed or sold in the outdoor displays.

(B) Outdoor displays are contiguous with a fully enclosed food establishment that is in compliance with subdivision (a).

(C) Outdoor displays have overhead protection that extends over all food items.

(D) Food items from the outdoor display are stored inside a fully enclosed food establishment that is in compliance with subdivision (a) at all times other than during business hours. Any food items to be stored pursuant to this subdivision shall be stored in accordance with subdivision (a) of Section 114080.

(E) Outdoor displays comply with Section 114010 and have been approved by the enforcement agency.

(F) Outdoor displays are under the constant and complete control of the operator of the permitted food establishment.

(6) The Mercado La Paloma, located at 3655 South Grand Avenue in Los Angeles, operated by Esperanza Community Housing Corporation, which is a public market open only on one side, and which meets the following criteria:

(A) All facilities inside the Mercado La Paloma have overhead protection that extends over all food items.

(B) All facilities inside the Mercado La Paloma are enclosed on at least two sides.



(C) All facilities inside the Mercado La Paloma are under the constant and complete control of the operator.

(D) During periods of inoperation, food, utensils, and related items shall be stored so as to be adequately protected at all times from contamination, exposure to the elements, ingress of vermin, and temperature abuse.

(E) During all hours of operation, air curtains shall be in operation over all unclosed door openings to the outside to exclude flying pests.

(c) This section shall not be construed to require the enclosure during operating hours of customer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(1) The dispensing operations are installed contiguous with a fully enclosed food establishment that is in compliance with subdivision (a) and operated by the food establishment.

(2) The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles.

(3) Ice is dispensed only from an icemaker-dispenser. Ice is not scooped or manually loaded into an ice dispenser out-of-doors.

(4) Single-service utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(5) The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.

(6) During nonoperating hours, the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(7) The owner or operator of the food establishment demonstrates to the enforcement agency that acceptable methods are in place to properly clean and sanitize the beverage dispensing equipment.

(8) Beverage dispensing operations are in compliance with Section 114010 and have been approved by the enforcement agency.

(9) Beverage dispensing operations are under the constant and complete control of the permitholder of the food establishments who is operating the dispensing facility.

(d) This section shall not be construed to allow outdoor displays in violation of local ordinances.

SEC. 2. The Legislature finds and declares that due to unique circumstances relating to the structure and operation of the Mercado La Paloma in Los Angeles, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of



Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Mercado La Paloma in Los Angeles may provide necessary services at the earliest possible time, it is necessary that this act take effect immediately.

